REMARKS/ARGUMENTS

This Amendment is filed in response to the Office Action dated June 16, 2010. In the Office Action, the pending claims were rejected under 35 U.S.C. §103(a) as being obvious in light of various combinations of U.S. Patent No. 6,085,170 ("*Tsukuda*"), an article in Traffic World Magazine entitled "Core Competency" written by David Biederman ("*David*"), and U.S. Patent No. 6,879,962 ("*Smith*"). In response to the Office Action, Claims 1, 4, 9, 11, 16, 20-21, 24, 29-30, and 40 were amended. Thus, as a result of this Amendment, Claims 1, 4, 9, 11, 16, 20-21, 24, 29-30, and 40 are pending in the application.

A. Rejection of Independent Claims 1, 9, 16, 24, and 40

In the Office Action, the Examiner rejected independent Claims 1, 9, 16, 24, and 40 as being obvious in light of *Tsukuda* and *David*. Applicant respectfully submits that none of the references cited, whether viewed alone or in combination, disclose or suggest all of the features recited in the independent claims. In particular, none of the references disclose or suggest offering a plurality of time windows, or a subset of the plurality, to a recipient as available times for delivery of an item, *wherein the plurality, or subset, includes at least two sequential time windows and at least one overlapping time window that overlaps a portion of each of the sequential time windows*.

Generally, *Tsukuda* discloses a "delivery managing system for managing delivery of goods from a distribution center through an agent to a receiver." *Tsukuda* does not provide any other description of the delivery time other than stating that it is a "date and time" for delivery. Nor does *Tsukuda* disclose delivery times of any particular duration or relation (e.g., how the delivery times relate to one another).

In general, *David* discusses that many online retailers desire to keep fulfillment operations in-house, and, therefore, are scrambling to expand their own facilities (i.e., distribution and warehousing capabilities) to avoid e-commerce backlogs. As part of the delivery process, *David* notes that a challenge "is getting enough density on each route and time slot." In describing the challenge, *David* notes that if "we are in the neighborhood at 7 a.m., we don't want to come back at 3 p.m. for someone else and the . . . marketing challenge is to entice

others to that window." While *David* does disclose enabling the customers to "select delivery times within two-hour windows," *David* does not disclose or suggest providing each customer with a plurality of time windows including at least two sequential time windows and an overlapping time window that overlaps a portion of each of the sequential time windows. Instead, *David* outlines a recognized problem in the art of "getting enough density on each route and time slot" and of enticing customers to particular time windows, yet does not provide a solution to this problem. *David* recognizes, but does not solve, a problem that is similar in some respects to the problem addressed by the concepts recited in independent Claims 1, 9, 16, 24, and 40.

In various embodiments of independent Claims 1, 9, 16, 24, and 40, a sequential time window with an overlapping time window option provides customers with increased scheduling flexibility that may lead to increased density on delivery routes. For example, paragraphs [0037]-[0040] of the present application note:

> Referring back to FIG. 1, a typical selection of time windows offered by conventional systems for a particular day include such delivery times as 7:00 to 9:00 a.m., 9:00 to 11:00 a.m. and 11:00 to 1:00 p.m. As shown in FIG. 6, however, the method and system of the present invention allows a purchaser to choose from additional overlapping time windows for delivery. An overlapping window is any window that includes any portion of two or more sequential time windows.
>
> In the embodiment of two hour time windows with a one hour overlap shown in FIG. 6, a delivery day has been modeled with two shifts, morning and afternoon, with projected deliveries of one hundred eighty orders per shift, or 30 orders per hour. Thus, referring to the morning shift, a purchaser may choose not only the sequential time windows of 7:00 to 9:00 a.m., 9:00 to 11:00 a.m. and 11:00 to 1:00 p.m., but also overlapping times of 8:00 to 10:00 a.m. and 10:00 to 12:00 noon. Thus, the total set of overlapping time windows offered to the purchaser for morning delivery would be: 7 am-9 am | 8 am-10 am | 9 am-11 am | 10 am-

> 12pm | 11 am-1 pm. If the purchaser is not available to take a delivery at 7:00 a.m., but is available to take delivery at 8:00 a.m., the purchaser would not have to delay delivery until 9:00 a.m. Rather, that purchaser could choose the 8:00 to 10:00 a.m. time window. Likewise, for the afternoon shift modeled in FIG. 6, the overlapping time windows offered to the purchaser for afternoon delivery would be: 4 pm-6 pm | 5 pm-7 pm | 6 pm-8 pm | 7 pm-9 pm | 8 pm-10 pm.

Present Application, paras. [0037] – [0040].

In various embodiments, as noted by the present application, the use of overlapping time windows may increase the number of stops a delivery driver can make within a given time period.

> Figure 6 also demonstrates one of the advantages of using the overlapping delivery windows model. The term Stops Per On Road Hour (SPORH) represents the number of times a driver stops in a given hour to deliver items. The current SPORH through the grocery delivery industry is less than 2. By employing the method and system of the present invention, however, the SPORH increases significantly to between a range of 4 and 5 [primarily because of the increased flexibility provided to the consumer, which results in denser choices]. By increasing the number of SPORH in this manner the number of drivers required to achieve the same number of deliveries in a given amount of time decreases significantly.

Present Application, paras. [0042].

Based on the foregoing, Applicant respectfully submits that the references cited in the Office Action, do not disclose or suggest each of the features recited in independent Claims 1, 9, 16, 24, and 40. Therefore, Applicant respectfully submits that these claims are not obvious in light of any combination of the references cited in the Office Action and requests that the rejection of these claims be withdrawn.

B. Rejection of Dependent Claims 4, 11, and 29

Dependent Claims 4, 11, and 29 depend from independent Claims 1, 9, and 24 respectively and include all of the recitations of the corresponding base claim and any intervening claims. Accordingly, for this reason and for the reasons stated above with respect to independent Claims 1, 9, and 24, dependent Claims 4, 11, and 29 are patentable over the references cited in the Office Action.

C. Rejection of Dependent Claims 20-21 and 30

In the Office Action, the Examiner rejected dependent Claims 20-21 and 30 as being obvious in light of *Tsukuda*, *David*, and *Smith*. However, *Smith* does not fulfill the above-discussed deficiencies of *Tsukuda* and *David*. Therefore, Applicant respectfully submits that dependent Claims 20-21 and 30 are not obvious in light of any combination of the references cited in the Office Action and requests that the rejection of these claims be withdrawn.

D. Conclusion

The foregoing is submitted as a full and complete response to the Office Action dated June 16, 2010. The foregoing amendments and remarks are believed to have placed the present application in condition for allowance, and such action is respectfully requested. The Examiner is encouraged to contact Applicant's undersigned attorney at (404) 881-4381 or at dane.baltich@alston.com to resolve any remaining issues in order to expedite examination of the present application.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR §1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

/Dane A. Baltich/

Dane A. Baltich
Registration No. 55,274

Customer No. 00826
ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Atlanta Office (404) 881-7000
Fax Atlanta Office (404) 881-7777